

ESTTA Tracking number: **ESTTA623491**

Filing date: **08/26/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Oracle America, Inc.
Granted to Date of previous extension	08/27/2014
Address	500 Oracle Parkway Redwood Shores, CA 94065 UNITED STATES
Attorney information	LYNN Y HSU Holland & Hart LLP PO BOX 8749 ATTN TRADEMARK DOCKETING DENVER, CO 80201 UNITED STATES docket@hollandhart.com, aanderson@hollandhart.com, lyhsu@hollandhart.com, lmroot@hollandhart.com

Applicant Information

Application No	86000466	Publication date	04/29/2014
Opposition Filing Date	08/26/2014	Opposition Period Ends	08/27/2014
Applicant	ZHENGZHOU DANDIAN TECHNOLOGY SOFTWARE LTD. ROOM 1228 INF. INDUSTRY PARK ST.8 ETDZ ZHENGZHOU, HENAN, CHINA		

Goods/Services Affected by Opposition


<p>Class 009. First Use: 2011/10/01 First Use In Commerce: 2011/10/01 All goods and services in the class are opposed, namely: Blank computer discs; Blank floppy computer discs; Blank magnetic discs; Blank optical discs; Blank USB flash drives; Calculating machines; Computer game software; Computer memories; Computer operating programs, recorded; Computer operating software; Computer peripheral devices; Computer screen saver software; Computer search engine software; Computer software for use in customer relationship management (CRM); Computers; Data processing apparatus; Downloadable electronic publications in the nature of magazines in the field of computers; Downloadable image file containing artwork, text, audio, video, games and Internet Web links relating to sporting and cultural activities; Downloadable music files; Downloadable ring tones for mobile phones; Downloadable software for use in database management, as a spreadsheet and word processing; Laptop computers; Magnetically encoded identity cards; Modems; Photocopiers; Punched card office machines; Telecommunications transmitters</p>
<p>Class 042. First Use: 2011/10/01 First Use In Commerce: 2011/10/01 All goods and services in the class are opposed, namely: Computer programming; Computer software consultancy; Computer software design; Computer system design services; Computer systems analysis; Computer virus protection services; Consulting services in the field of design, selection, implementation and use of computer hardware and software systems for others; Conversion of data or</p>

documents from physical to electronic media; Creating and maintaining web sites for others; Data conversion of computer programs and data, not physical conversion; Digitization of documents; Duplicating computer programs; Hosting the web sites of others on a computer server for a global computer network; Installation of computer software; Maintenance of computer software; Monitoring of computer systems by remote access to ensure proper functioning; Provision of search engines for the Internet; Recovery of computer data; Rental of computer software; Rental of computers; Rental of web servers; Updating of computer software

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1384991	Application Date	05/24/1983
Registration Date	03/04/1986	Foreign Priority Date	NONE
Word Mark	SUN		
Design Mark			
Description of Mark	The mark consists of the capital letter "U" so arranged in a design as to give the impression of the word "Sun" written both forwards and backwards, regardless of which way the design is turned.		
Goods/Services	Class 009. First use: First Use: 1982/03/00 First Use In Commerce: 1982/03/00 Computer Hardware-Namely, Processor and Memory, Video Displays, Keyboard, Mouse Pointing Device, and Cables; and Computer Software-Namely, Programs Recorded on Magnetic Disks and Tapes		

U.S. Registration No.	1776322	Application Date	06/29/1992
Registration Date	06/15/1993	Foreign Priority Date	NONE
Word Mark	SUN		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 009. First use: First Use: 1982/03/00 First Use In Commerce: 1982/03/00 computers, [computer workstations composed of processors and memory, video displays, keyboard, mouse pointing device and computer operating systems software and] computer software for use in the field of computer networking and graphics applications and computer hardware; namely, processors and memory, video displays, keyboard, mouse pointing device and cables

U.S. Registration No.	1794747	Application Date	06/29/1992
Registration Date	09/28/1993	Foreign Priority Date	NONE
Word Mark	SUN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1982/03/00 First Use In Commerce: 1982/03/00 computers, computer workstations composed of processors and memory, video displays, keyboard, mouse pointing device and computer operating systems software and computer software for use in the field of computer networking and graphics applications and computer hardware; namely, processors and memory, video displays, keyboard, mouse pointing device and cables		


U.S. Registration No.	3794992	Application Date	10/05/2004
Registration Date	05/25/2010	Foreign Priority Date	NONE
Word Mark	SUN		
Design Mark			

Description of Mark	NONE
Goods/Services	<p>Class 035. First use: First Use: 1996/05/00 First Use In Commerce: 1996/05/00 Arranging and conducting trade shows in the fields of computing and information-technology; subscription to a computer service</p> <p>Class 037. First use: First Use: 1999/12/00 First Use In Commerce: 1999/12/00 Repair and installation services of computer, computer hardware, computer systems, computer peripherals, and computer network</p> <p>Class 038. First use: First Use: 2008/07/00 First Use In Commerce: 2008/07/00 Telecommunication access services, namely, providing access to databases of others; electronic transmission of computer programs of others over the Internet; providing multiple-user access to a global computer information network; providing on-line forums for transmission of messages among computer users concerning computer hardware, computer software, computing and information technology</p> <p>Class 041. First use: First Use: 2003/07/00 First Use In Commerce: 2003/07/00 Educational services, namely, training in the use of computers, computer hardware, computer software, computer systems, computer peripherals, and computer networks; arranging and conducting of educational conferences in the fields of computing and information technology</p> <p>Class 042. First use: First Use: 1999/12/00 First Use In Commerce: 1999/12/00 Scientific research; industrial analysis and research services in the fields of computing and information technology; engineering services; computer hardware consulting services; computer software consulting services; computer programming for others; on-line services in connection with computer hardware and software, namely, technical support services, namely, troubleshooting of computer hardware and software problems; updating computer software for others; computer software development; renting out computer software; development of data processing programs by order of third parties; rental of computer software, computer hardware, computer peripherals, and computers; integration of computer systems; providing online information in the field of troubleshooting of computer hardware, computer software, computer systems, computer peripherals and computer networks problems; creating, maintaining, managing and hosting web sites for others; hosting computer software applications of others; computer systems analysis; computer diagnostic services; computer software maintenance services; customization of computer hardware, computer software, computer systems, computer peripherals, and computer networks; computer hardware design and development services; computer network design, development and consulting services; data encryption services; repair and installation of computer software</p>

U.S. Registration No.	2530320	Application Date	04/30/1999
Registration Date	01/15/2002	Foreign Priority Date	NONE
Word Mark	SUN RAY		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1999/06/00 First Use In Commerce: 1999/06/00 computer hardware; computer software, namely, computer software for use in connection with computer servers, computer networks, and global communications networks; computer peripherals; network computers; other electronic devices, namely, enterprise appliances, network appliances, appliances for use in connection with a global computer network, smart cards, and smart card read-</p>		

	ers; and instructional manuals in association with the foregoing goods		
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U.S. Registration No.	2851226	Application Date	01/19/2001
Registration Date	06/08/2004	Foreign Priority Date	09/12/2000
Word Mark	SUN FIRE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2000/12/00 First Use In Commerce: 2000/12/00 COMPUTER HARDWARE; COMPUTER SOFTWARE, NAMELY, COMPUTER SOFTWARE FOR DELIVERY/TRANSMISSION OF NETWORK APPLICATIONS AND UPDATES BETWEEN A COMPUTER SERVER AND NETWORK ADMINISTRATOR; COMPUTER SERVER SOFTWARE; NETWORK OPERATING SYSTEM SOFTWARE;[COMPUTER PERIPHERALS;] SERVERS; COMPUTER HARDWARE AND SOFTWARE, INCLUDING COMPUTER SOFTWARE FOR APPLICATION IN THE FIELD OF THE NETWORK MANAGEMENT AS WELL AS FOR THE DEVELOPMENT OF FURTHER SOFTWARE; COMPUTER HARDWARE AND SOFTWARE, INCLUDING COMPUTER SOFTWARE FOR ENTERING AND CALLING UP INFORMATION FROM THE INTERNETAND THE WORLDWIDE WEB; COMPUTER PROGRAMS FOR USING THE INTERNET AND THE WORLDWIDE WEB; COMPUTER PROGRAMS DISSEMINATED ON-LINE OVER THE INTERNET AND WEB; COMPUTER PROGRAMS DOWNLOADABLE FROM A GLOBAL COMPUTER NETWORK; COMPUTER HARDWARE AND SOFTWARE, IN PARTICULAR FOR ACCESS TO THEINTERNET AND FOR USING THE INTERNET; OPERATING AND USER INSTRUCTIONS STORED IN DIGITAL FORM FOR COMPUTERS AND COMPUTER SOFTWARE, IN PARTICULAR ON [FLOPPY DISKS OR] CD-ROM</p>		

U.S. Registration No.	3068519	Application Date	12/28/2000
Registration Date	03/14/2006	Foreign Priority Date	NONE
Word Mark	SUN BLADE		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2001/09/00 First Use In Commerce: 2001/09/00 Computer hardware; computer software, namely, [computer programs for testing compatibility of computer programs,] computer programs for use in computer networking, computer programs for use in computer emulation, [computer programs for use in electronic mail, computer programs for creating graphical interfaces, computer programs for use in database management, computer programs for document processing,] computer programs for use in computer security, [computer programs for use in the development of computer programs, programming languages, toolkits and compilers, computer programs for use in developing, compiling and executing other computer programs, on computers, computer networks and global computer networks, computer programs for use in navigating, browsing, transferring information, and distributing and viewing other computer programs, on computers, computer networks and global computer networks, computer programs downloadable from global computer networks; computer peripherals; computer workstations; instructional manuals packaged in association therewith]

Attachments	73427303#TMSN.png(bytes) 74289666#TMSN.png(bytes) 78495135#TMSN.png(bytes) 76196827#TMSN.png(bytes) 76188711#TMSN.png(bytes) Notice of Opposition to SUNSHINE CRM (76916.0827).pdf(115417 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	/Lynn Y. Hsu/
Name	LYNN Y HSU
Date	08/26/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

ORACLE AMERICA, INC.,)	
)	Opposition No.:
Opposer,)	
)	
v.)	Mark: SUNSHINE CRM
)	
ZHENGZHOU DANDIAN)	
TECHNOLOGY SOFTWARE LTD.,)	Serial No.: 86/000,466
)	
Applicant.)	

NOTICE OF OPPOSITION

Oracle America, Inc. (“Opposer”), a Delaware corporation, having a principal place of business at 500 Oracle Parkway, Redwood Shores, California 94065, believes it will be damaged by registration of the mark SUNSHINE CRM shown in U.S. Trademark Application Serial No. 86/000,466 (“Application”) for numerous electronic, software, and computer-related goods and services in Classes 9 and 42 and hereby opposes the Application.

As grounds for its opposition, Opposer alleges that, upon actual knowledge with respect to itself and its own actions, and upon information and belief as to other matters:



1. Opposer is a leading provider of optimized and fully integrated business hardware and software systems that help organizations overcome complexity and drive innovation.
2. Since well prior to the filing date of the Application and the Application’s claimed date of first use, Opposer and its predecessor have used the SUN mark in connection with the marketing and sale of computer hardware systems and related software, as well as computer-related services.

3. Opposer and its predecessor have sold billions of dollars worth of computer hardware systems under the mark SUN, and other SUN-formative marks, and Opposer has spent millions of dollars in advertising and promoting its hardware under these marks.

4. As a result of Opposer's extensive marketing and promotion, coupled with the overwhelming commercial success of its computer hardware systems, Opposer's SUN mark has become famous and well-known.

5. The mark set forth in the Application incorporates Opposer's SUN trademark in its entirety. Further, the acronym "CRM" stands for "Customer Relationship Management," which is descriptive with respect to the goods and services recited in the Application.

6. Opposer is the owner of, among others, the following United States trademark registrations:

<u>MARK</u>	<u>REG. NO.</u>	<u>REG. DATE</u>	<u>GOODS</u>
 (SUN Stylized)	1,384,991	March 4, 1986	Class 9: Computer hardware-namely, processor and memory, video displays, keyboard, mouse pointing device, and cables; and computer software-namely, programs recorded on magnetic disks and tapes
SUN	1,776,322	June 15, 1993	Class 9: Computers, computer workstations composed of processors and memory, video displays, keyboard, mouse pointing device and computer operating systems software and computer software for use in the field of computer networking and graphics applications and computer hardware; namely, processors and memory, video displays, keyboard, mouse pointing device and cables
	1,794,747	Sept. 28, 1993	Class 9: Computers, computer workstations composed of processors and memory, video displays, keyboard, mouse pointing device and computer operating systems software and computer software for use in the field of computer networking and graphics applications and computer hardware; namely, processors and memory, video displays, keyboard, mouse pointing device and cables

<u>MARK</u>	<u>REG. NO.</u>	<u>REG. DATE</u>	<u>GOODS</u>
SUN	3,794,992	May 25, 2010	<p>Class 35: Arranging and conducting trade shows in the fields of computing and information technology; subscription to a computer service.</p> <p>Class 37: Repair and installation services of computer, computer hardware, computer systems, computer peripherals, and computer network.</p> <p>Class 38: Telecommunication access services, namely, providing access to databases of others; electronic transmission of computer programs of others over the Internet; providing multiple-user access to a global computer information network; providing on-line forums for transmission of messages among computer users concerning computer hardware, computer software, computing and information technology.</p> <p>Class 41: Educational services, namely, training in the use of computers, computer hardware, computer software, computer systems, computer peripherals, and computer networks; arranging and conducting of educational conferences in the fields of computing and information technology.</p> <p>Class 42: Scientific research; industrial analysis and research services in the fields of computing and information technology; engineering services; computer hardware consulting services; computer software consulting services; computer programming for others; on-line services in connection with computer hardware and software, namely, technical support services, namely, troubleshooting of computer hardware and software problems; updating computer software for others; computer software development; renting out computer software; development of data processing programs by order of third parties; rental of computer software, computer hardware, computer peripherals, and computers; integration of computer systems; providing online information in the field of troubleshooting of computer hardware,</p>

MARK	REG. NO.	REG. DATE	GOODS
			computer software, computer systems, computer peripherals and computer networks problems; creating, maintaining, managing and hosting web sites for others; hosting computer software applications of others; computer systems analysis; computer diagnostic services; computer software maintenance services; customization of computer hardware, computer software, computer systems, computer peripherals, and computer networks; computer hardware design and development services; computer network design, development and consulting services; data encryption services; repair and installation of computer software.
SUN RAY	2,530,320	Jan. 15, 2002	Class 9: Computer hardware; computer software, namely, computer software for use in connection with computer servers, computer networks, and global communications networks; computer peripherals; network computers; other electronic devices, namely, enterprise appliances, network appliances, appliances for use in connection with a global computer network, smart cards, and smart card readers; and instructional manuals in association with the foregoing goods
SUN FIRE	2,851,226	June 8, 2004	Class 9: Computer hardware; computer software, namely, computer software for delivery/transmission of network applications and updates between a computer server and network administrator; computer server software; network operating system software; servers; computer hardware and software, including computer software for application in the field of the network management as well as for the development of further software; computer hardware and software, including computer software for entering and calling up information from the Internet and the worldwide web; computer programs for using the Internet and the worldwide web; computer programs disseminated on-line over the Internet and web; computer programs downloadable from a global computer network; computer hardware and software, in particular for access

MARK	REG. NO.	REG. DATE	GOODS
			to the Internet and for using the Internet; operating and user instructions stored in digital form for computers and computer software, in particular on CD-ROM
SUN BLADE	3,068,519	March 14, 2006	Class 9: Computer hardware; computer software, namely, computer programs for use in computer networking, computer programs for use in computer emulation, computer programs for use in computer security

7. The registrations covering the marks listed above (collectively the “SUN Marks”) are valid and subsisting and constitute *prima facie* evidence of the validity of the marks and registrations, and of Opposer’s ownership of and exclusive right to use these marks in connection with the goods set forth in these registrations.

8. Registration Nos. 1,384,991, 1,776,322, 1,794,747, 2,530,320, 2,851,226, and 3,068,519 are incontestable pursuant to 15 U.S.C. §§ 1065 and 1115(b), and therefore constitute conclusive evidence of the validity of the marks and registrations, and of Opposer’s exclusive right to use these marks in connection with the goods set forth in these registrations.

9. Pursuant to Section 22 of the Lanham Act, 15 U.S.C. § 1072, these registrations also provide constructive notice of Opposer’s ownership of its SUN Marks.

10. Since well prior to the filing date of the Application or the Application’s claimed date of first use, Opposer has established a family of marks in its SUN Marks.

COUNT I
(Likelihood of Confusion)
15 U.S.C. § 1052(d)

11. Opposer realleges and incorporates by reference the preceding allegations of its Notice of Opposition.

12. Since well before the filing date of the Application and the Application's claimed date of first use, Opposer and its predecessor have used the SUN Marks in connection with computer-related goods and services.

13. Applicant's SUNSHINE CRM mark so resembles Opposer's prior used and registered SUN Marks as to be likely, when used in connection with the goods and services set forth in the Application, to cause confusion, or to cause mistake, or to deceive under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

COUNT II
(Likelihood of Dilution)
15 U.S.C. § 1125(c)

14. Opposer realleges and incorporates by reference the preceding allegations of its Notice of Opposition.

15. Opposer's SUN Marks have become well-known and famous as a designation of Opposer's goods.

16. Opposer's SUN Marks became famous well before the filing date of the Application and the Application's claimed date of first use.

17. Applicant's SUNSHINE CRM mark so resembles Opposer's prior used and registered SUN Marks as to dilute the distinctive quality of Opposer's marks by blurring under Section 43(c) of the Lanham Act, as amended, 15 U.S.C. 1125(c).

WHEREFORE, Opposer believes that it will be damaged by registration of the mark shown in Application Serial No. 86/000,466 and respectfully requests that the opposition be sustained, and that registration to Applicant be refused.

The filing fee of \$600.00 is submitted electronically with this filing. Should this payment method fail, please charge this fee to Deposit Account No. 08-2623.

Dated: August 26, 2014

Respectfully submitted,

/Lynn Hsu/

Andrea Anderson

Lynn Hsu

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Attorneys for Opposer

ORACLE AMERICA, INC.

CERTIFICATE OF SERVICE

I certify that on August 26, 2014, I served a copy of the above **NOTICE OF OPPOSITION** to the following by overnight courier, postage prepaid:

Guo Zhi
Room 522 Tower S GuangYaoDongFang Square
Haidian, Beijing100038
CHINA

/s/ Lisa Root
Lisa Root